

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

UNITED STATES OF AMERICA upon the)
relation and for the use of the TENNESSEE)
VALLEY AUTHORITY,)
Plaintiff,)
v.) No. 11-cv-2826-STA-tmp
AN EASEMENT AND RIGHT-OF-WAY)
OVER 4.47 ACRES OF LAND, MORE OR)
LESS, IN TIPTON COUNTY, TENNESSEE,)
and PEGGY A. BASKIN,)
Defendants.)

**ORDER GRANTING MOTION FOR ENTRY OF AN INVESTMENT ORDER
AND ORDER OF POSSESSION**

Before the Court is Plaintiff's Motion for Entry of an Investment Order and an Order of Possession (D.E. # 8), filed September 26, 2011. For the following reasons, Plaintiff's Motions are **GRANTED**.

As to Plaintiff's Motion for Entry of an Investment Order, Plaintiff indicates that it sent a \$13,500 United States Treasury check by overnight delivery via Federal Express to the Clerk of Court on September 22, 2011. Plaintiff has received confirmation from Federal Express that the \$13,500 check has been delivered to the Clerk of Court. Plaintiff estimates this amount to be just and liberal compensation for the easement and right-of-way acquired in this condemnation action. (D.E. # 6.) The Court directs the Clerk of Court to invest the funds in an interest-bearing account pending further orders

from the Court. Therefore, Plaintiff's Motion for Entry of an Investment Order is

GRANTED.

As to Plaintiff's Motion for Entry of an Order of Possession, the Court finds that Plaintiff has complied with the requirements of 16 U.S.C. §§ 831-831ee and 16 U.S.C. § 831(c)(i), which provide that the Declaration of Taking Act applies to condemnation cases brought under the TVA Act. The Declaration of Taking Act requires Plaintiff to file a Notice of Condemnation, a Complaint, a Declaration of Taking, and tender estimated just compensation to the Court.¹ The Court finds that Plaintiff's Declaration of Taking has satisfied the requirements of 40 U.S.C. § 3114(a).

Plaintiff requests immediate possession of the permanent easement and right-of-way so that it can proceed with the construction of a transmission line which is necessary to provide reliable electric service to the residents of Tipton County, Tennessee. Plaintiff requests limited easement rights, and the owner of the underlying property has the continuing right to use the land within that right-of-way for purposes which do not interfere with Plaintiff's easement rights. Pursuant to 40 U.S.C. § 3114(b),

“on filing the declaration of taking and depositing in the court, to the use of the persons entitled to the compensation, the amount of the estimated compensation stated in the declaration, (1) title to the estate or interest specified in the declaration vests in the Government; (2) the land is condemned and taken for the use of the Government; and (3) the right to just compensation for the land vests in the persons entitled to compensation.”

¹ See 40 U.S.C. § 3114(a).

Therefore, Plaintiff's Motion for Entry of an Order of Possession is **GRANTED**, and Plaintiff shall have immediate possession of a permanent easement and right of way as described in the Complaint, Notice of Condemnation, and Tract Description.²

IT IS SO ORDERED.

s/ **S. Thomas Anderson**
S. THOMAS ANDERSON
UNITED STATES DISTRICT JUDGE

Date: November 30th, 2011.

² The issue of whether \$13,500 is in fact just compensation for this taking is not yet before the Court.